A LEAGUE OF NATIONS
HISTORY OF A MOVEMENT



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LEAGUE OF NATIONS

A CHAPTER IN THE HISTORY OF THE MOVEMENT

BY

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AUTHOR'S PREFACE.

This work aims not at a comprehensive narrative of the origin and growth of opinion on that greatest of problems — adequate international organization — but is confined largely to developments with which the writer has been personally connected.

Due largely to its endeavour to confine its program to the realizable in the present stage of world opinion and prejudice, the American movement appears to have been accepted abroad more freely than that of any other group. Progress beyond the hope of its originators is already recorded. But as we are still in the full tide of events in this field the author hopes to follow the present publication with a second volume.

FOREWORD

This little book is a history of the movement in the United States to secure action by the United States and other Nations, after this great world war, looking to the establishment of a League to Enforce Peace. Mr. Marburg, the author, is a student of international law, a publicist, and a diplomat of marked ability and learning. Under the last Republican Administration, he was United States Minister to Belgium. With great public spirit he has always been active in associations for the promotion of arbitration and judicial settlement of international controversies.

Mr. Marburg, with Mr. Holt of the *Independent*, was the first to move for the formation of a League to Enforce Peace, and has been most diligent and

effective in promoting the League ever since.

The principles and project of the League to Enforce Peace, as projected by the American Section of its promoters, are few and simple. Shortly stated, they look to the peaceable procedure for the hearing and decision of all international controversies, to be enforced by the joint power of the nations of the world. The force is to be applied in securing the due process under the agreements of the League. It does not extend to the enforcement of the judgment or recommendation of compromise which shall be the result of the hearing. The essence of the plan is the delay and deliberation involved in orderly procedure for the hearing and decision of the controversy. It is thought that most wars can be avoided by such a procedure, and the force is to be applied against the premature hostilities of any nation which violates its plighted faith under the League by beginning war before the

procedure of hearing and judgment has been completed.

Mr. Marburg, in his first chapter, has discussed a good many details and phases of the possible operation of a League to Enforce Peace which have been considered by a group of members of the League. As Mr. Marburg has taken pains to point out, it is a private group and not a committee of the League. The group itself holds the view that it is best for the League to confine its authoritative commitments to the short program of the League, and it has never asked the Executive Committee to pass upon the results of its labour.

The résumé which Mr. Marburg has given of the growth of the support of the general plan of the League must become more and more useful as the time approaches for the consummation of the purpose of the League. This time can not come until Germany, the head and front of military autocracy in the world,

shall have been defeated and the power of vicious militarism broken. This is a condition precedent to any useful League to Enforce Peace. Experience shows that the fundamental evil of military autocracy is the theory that there is no international morality and that no sacredness attaches to national obligations when the interest of the state requires that the obligations shall be broken. When such a false and vicious philosophy is broken down by a defeat of the German military caste in this war, the world will be ripe for a League to Enforce Peace, because national obligations will then acquire a strength and practical binding quality that will lead all the nations to rest reasonably secure in the promises of their sister nations.

I hope that Mr. Marburg's little book will be widely read.

Wm. H. Taft.

Pointe-a-Pic, Canada,
September 6, 1917.

LEAGUE OF NATIONS

A CHAPTER IN THE HISTORY OF THE MOVEMENT[1]

STRUCK with the benefits of political organization within the State, thinking men have long viewed the possibility of similar organization between States; to suffer the continuance of international anarchy with its disastrous results was a reflection on the common intelligence.

From time to time this consciousness has flowered in noble expression and occasionally in definite plans for world organization. Men did not question the wisdom of the steps advocated by these thinkers. But they looked about them and saw apparently insurmountable barriers of national jealousies and hate and ambition. And the simple fact is that no body of men in the various nations appeared with sufficient vision and pur-

pose to attempt to realize these projects.

The present movement for international justice, to be attained ultimately through international organization, may be said to have had its birth at the First Hague Conference (1899). While it has suffered disappointments, the movement from that day to this has constantly grown, drawing within its ranks more and more thoughtful men in private station and an ever greater number of men in positions of power, until today it really looks as if we were on the eve of realizing at least the beginnings of a true world organization. Are the men who have the doing of this thing in the hollow of the hand to suffer the world to be again disappointed? God forbid.

I

VISAGING THE ORGANIZATION AND WORKINGS OF A LEAGUE OF NATIONS [2]

The brain centre of a League of Nations will probably be an executive body

(Ministry) which will be the source of much of the League's activity. Such a body would naturally entertain complaints and, if unable itself to compose the controversies, would pass them up to a World Court or to a Council of Conciliation accordingly as it judged them to be justiciable questions or conflicts of political policy.

As the Court would probably be empowered, like the Supreme Court of the United States of North America, itself to pass upon the question of jurisdiction, the Ministry could well afford to lean toward the Court in making the choice referred to, being assured that if it erred in its choice the Court would correct the mistake.

That which is sometimes termed "preventive justice" could likewise be introduced through the Ministry, by charging that body with the important positive function of keeping a close watch on both international developments and on internal dissensions likely to lead to

international complications. In the latter field its powers would, of necessity, be purely facultative, since it is not proposed to confer upon the League the right to interfere in the internal affairs of its members. Whether or not it would eventually find it necessary, in the interests of the World's peace, to deal more drastically with backward countries is a question which we are not called upon to answer now. To its own members the League could only suggest the advisability of taking notice of, and endeavouring to allay, internal discontent which was likely to assume international aspects, and offer the services of its tribunals and committees to that end.

In all probability it would likewise be in the Ministry that most legislation would originate, to be acted upon by an International Legislative Assembly. If any such function is expected of it, the members of the Ministry should then have seats in the Legislative Assembly.

But the greatest responsibility that

would rest on a Ministry would be that of determining when a crisis had arisen calling for the use of force under the terms of the League and of so notifying the individual States of the League, leaving them to determine, each for itself, whether or not it was prepared to live up to its obligations under the treaty. Such a situation would be parallel to that in which the United States Congress would find itself if called upon by the President to act under the treaty by which the United States has guaranteed the integrity of Cuba: the Congress alone, under the Constitution, may declare war, and when the conditions contemplated by the treaty have arisen the Executive Branch of the Government must await the pleasure of the Congress before it can make war in fulfilment of the country's treaty obligations.

A decision by the Ministry of the League such as is here contemplated must necessarily be swift and immediate, for war, once begun in earnest, is hard

to stay. And, as prompt decision can be expected ordinarily only from small bodies of men, the numbers composing the Ministry must not be large. It has been suggested that it should be appointed by and out of the proposed Council of Conciliation, which itself would embrace only men of "wide experience and of marked discretion and ability," and that it should consist of five members. It would seem that five is not too small a number to insure deliberation nor too large to prevent prompt decision in an emergency. The failure of most councils that have sat in international crises in the past has been due to their inability to agree promptly on a line of action. Such disagreement has been so common that nations aggressively disposed have come to count upon it. As the chief aim of the rudimentary organization of states which it is now proposed to set up as an entering wedge in the present senseless block of international anarchy is to prevent war before

there has been a hearing of the dispute, it is of foremost importance that the machinery designed to accomplish this object should be effective. It cannot be effective unless the responsibility for determining the moment when the League is called upon to use force rests with a small body of men, not diplomats but statesmen who have had wide experience, the very foremost men in their respective countries — so far as possible, men who enjoy the confidence not only of their fellow countrymen but of the world. It would not be difficult to name such men today from each of several of the Great Powers and from some of the Secondary Powers as well.

If Europe had had sitting permanently, say at the capital of some small country, a group of men of this kind, charged with the duty of watching closely international events, gathering knowledge of local difficulties and national aims, legitimate and other, and charged too with the duty of recom-

mending promptly a solution of disputes as they arose,— such solution as their experience and knowledge suggested and would have given especial value to,— is there any doubt that it would have witnessed fewer wars?

COUNCIL OF CONCILIATION

Co-operating with the Ministry, the source of its strength and of its authority, there must be a larger body, composed of representatives of the States of the League. This body, it has been suggested, should be styled "Council of Conciliation," since one of its important functions will be to compose conflicts of political policy with which a Court is not expected to deal. It should be vested with the power of injunction because in matters of vital importance nations will not abstain from taking the case in their own hands — will refuse to refer it to enquiry involving possibly a full year's delay — unless they can be assured that the offending Nation will be

estopped meanwhile from proceeding with the objectionable act. The Court would naturally enjoy this same power in cases within its jurisdiction.

The Council of Conciliation, like its committee, the Ministry, ought to have a permanent seat and a secretariat. It is likewise the best body to entrust with the duty of making rules for the League under the constitution in the sense in which a Department of the United States Government makes rules under the law. The making of international law proper should be in the hands of a still larger body representing the whole world and not simply the members of the League, since it will be law for the world. Here too, however, the Council of Conciliation and its committee, the Ministry, may properly play an important part in recommending, and actually initiating, measures in the Legislative Assembly. The time of the Council would probably be given up largely to such matters, actual controversies referred to it being

entrusted by it to subcommittees, fluctuating in personnel, or to a subcommittee of fixed personnel, as may be found wisest.

A matter of importance, one around which there is likely to be considerable discussion, is the composition of a body endowed with such great powers. Shall the Council be constituted on the principle of the equality of States, or shall the larger and more powerful countries have larger representation? It has been suggested that the leading Powers may be able to supply more men of the high type called for by the important duties resting on the Council. Furthermore, if the League is called upon to use force, the burden of the operations will naturally fall on the Great Powers who have the equipment. Will they not therefore insist on control of the Council? It is the Great Powers who actually make war, as we know it today, though the smaller Powers, particularly the backward ones, may be instrumental in bringing it on.

This question is not simple. The conclusion of several important groups is that the principle of equality should govern in the selection of the Council, and that for a time at least it is unlikely to give rise to complications, since the League, at the start, will be confined largely to the Great Powers, with a few only of the Secondary Powers added. If the backward nations are excluded, full representation of the Secondary Powers in the Council ought not to offer obstacles to its successful working. An analysis of their aims and of the motives governing their conduct in general would lead rather to the opposite conclusion: the conclusion that their presence in the Council would really make for justice and moderation.

Changes in the constitution of the League may well originate by resolution of the Council, subject to approval or rejection by a fixed proportion, more than a bare majority, of the States of the League. No constitutional change

and no war measure should be voted by the Council unless such measure has the approval, say, of four-fifths of the representatives of the Great Powers. Such a provision would prevent the smaller Powers from crowding into the League and from thus overwhelming the voice of the Great Powers in the Council.

THE INTERNATIONAL COURT OF JUSTICE

The suggestion that the Draft Convention for the Court of Arbitral Justice accepted in principle by the Second Hague Conference would serve as the basis for the proposed International Court of Justice under a league of nations has met with criticism from several important quarters. The Court which that Convention provided was thought to be inadequate to the needs of the League. There has followed a full discussion of the problem resulting in the elaboration of complete provisions designed to give the world a true international court of justice in connection with a league of na-

tions or independently of it, should the latter project unhappily fail of realization.[3]

Be it remembered at the outset that it is not thought wise, in the present stage of world opinion, to endow an international court with power to enforce its judgments. Such power may come to the Court in the fulness of time, but it is believed that at present the Great Powers are not ready to accept a proposal which would make it possible for a judicial tribunal, with power to pass upon the question of its own jurisdiction, to pronounce conclusively on disputes involving vital interests. It is proposed that the Court should consist of fifteen judges, not more than two of whom should be connected with any one country, but that they may be taken even from non-contracting States. The appointments should be for life, with optional retirement on pension at the age of seventy.

Few questions connected with the set-

ting up of an international court have proved in practice more difficult of solution than that of the composition of the Court. The discussions at the Second Hague Conference disclosed great diversity of opinion on this subject, the smaller States preventing an agreement by insisting on full representation on the Court, that which would have produced an assembly of forty-five in lieu of a court. But for the difficulty of solving this problem the Court of Arbitral Justice would have come into being long since.

That which is now proposed is that the judges for the International Court of Justice should be chosen by an assembly of judicial electors appointed by the contracting Powers, each Power being entitled to three electors. One judgeship should be filled at a time, the assembly remaining in session until the membership of the Court has been completed. It is suggested that nominations should be made not only by the judicial electors

themselves, who will no doubt represent the views of their respective Governments, but also by national and international societies of jurists, the persons nominated in the latter manner to be deemed candidates when their nomination has been communicated by any high official of one of the contracting Powers. It should be possible for the Assembly of Judicial Electors to adopt a preferential system of voting; but in the absence of such a provision no candidate should be declared elected unless he receives an absolute majority of the votes cast.

To fill vacancies in the Court by calling together again this Assembly of Judicial Electors from all parts of the earth, mayhap at short intervals, would be too cumbersome; so it is believed best to leave to the judicial electors themselves, who are to be a continuing body of changing personnel, the determination of this question. But in cases of impeachment the electors should meet and no judge be removable except by an abso-

lute majority of those present and voting.

As to the competence and procedure of the Court, it is felt that the contracting Powers should agree to submit to it all controversies of a justiciable nature not made the subject of other peaceful disposition.

Even non-contracting Powers should be encouraged to bring their cases to the Court and its jurisdiction should extend not only to these but likewise to disputes between a corporation and a State, or solely between corporations provided the dispute be of international consequence. It is realized that an international court will be called upon to deal with various systems of law; but it is thought possible to cover this point by specifying that the Court shall apply the doctrines of law which " the contracting Powers may provide or the litigants agree upon," failing which it shall be free to follow its own theory of justice subject to the doctrines already established by international law

as found in the various recognized sources.

Growth of law would be promoted by following the practice of accompanying the decree, itself in writing, with a written opinion, bearing the name of the judge by whom it was prepared, and giving the reasoning on which the decision is based. It is believed that when their names appear in connection with decisions judges attach greater importance to their labours. There is then added to the naturally conscientious discharge of their duties the personal element of regard for their own future reputations. The publication of a dissenting opinion is objected to on the ground that even though the judgment of the majority judges, which is the authoritative judgment, "were also a true and righteous judgment," nevertheless, owing possibly to the cleverness of the minority judges who would naturally do their best to present their views forcibly, "the reasonableness and persuasiveness of the dissenting opin-

ion " might be such as to throw discredit on the majority opinion. The judges should reside permanently at the seat of the Court. They would constitute a learned group whose interests would be similar and great benefit would result from their constant intercourse.

In order to promote resort to the Court non-contracting Powers should not be chargeable with any of the costs. A sense of right will lead them in due time to adhere to the Convention and assume their share of the burden of maintaining the Court if impelled to use it.

INTERNATIONAL LEGISLATIVE ASSEMBLY

Exclusion of backward countries from a league of nations will naturally be resented by them, as few countries will be ready to admit that they belong in that category. This difficulty might be met to a certain extent, though not overcome, by inviting them to send representatives at stated intervals to sit with the Council

of Conciliation, with the right to be heard by it but without a vote. Such a provision would supply the means of their getting their grievances before the League of Nations and of facilitating, at the same time, the discharge of the duty imposed on the Ministry to watch and forestall unfavourable international developments whether within or without the League.

The principal means of reconciling the backward countries, however, to their exclusion from membership in the League would be to admit them to the International Legislative Assembly. They ought to be there — all nations ought to be there — because the enactments of that body, in the absence of a veto within a given period of time, are supposed to bind not only the States of the League but to be true international law which the whole world is bound to respect.

It is suggested that the basis of representation in the Legislative Assembly

should be units of population supplemented by additional representation on the basis of units of commerce.

Numerous plans have been presented to the world from time to time, some exceedingly elaborate, aiming to give to each nation such representation in an international assembly as its importance entitles it to. The facts on which these plans are based are difficult of exact ascertainment and the many elements entering into the calculation make it very complex. They satisfy no one. On the other hand, it is manifestly unfair to employ population as the sole basis of representation among nations varying greatly in political power and in activity in international intercourse.

By including the single additional element of commerce, which usually runs parallel with progress in other directions, we correct this injustice in large measure and at the same time offer a comparatively simple basis of calculation.

It is desirable that the Legislative As-

sembly, while thus composed of representatives of all nations — we might designate them specifically as the nations which were invited to participate in the Second Hague Conference — should be under the guidance of the League, and to that end should be called and dissolved by the League, the latter's Ministry, as above indicated, having seats in the Assembly and being made largely responsible for initiating measures.

As provided in the platform of the American League to Enforce Peace, the acts of the Legislative Assembly should be binding on each participant unless rejected by it within a stated period. One year is probably sufficient time to allow for a nation to make up its mind on any subject likely to be brought before it in this way. The need of some such provision is shown by the failure of signatories to various Hague and other international conventions to ratify them, leaving nations which have ratified them in the position of having signed a contract, which, it

is true, is not binding as against the parties who have failed to ratify, but which may become binding against such parties at any moment that they choose to ratify. Again, the difficulty of keeping track of such ratifications is very great for the public and not inconsiderable for Governments. In time of war the varying obligations of belligerents to each other, owing to this same fact, lead to actual confusion. Much of this will be avoided by the provision recommended.

In course of time the Legislative Assembly, perpetuating the work both of the Interparliamentary Union, which has originated so many useful measures, and of the Hague Peace Conference, which turned them and many more of its own devising into law, should prove to be one of the most useful of the institutions which the plans for a league of nations contemplate. In the beginning it will probably lack power and even authority, and its activities may for a time be confined to the kind of work the Hague Con-

ference has been doing. Ultimately, if its work inspires sufficient confidence to lead the Powers to institute annual sessions, it will not only develop and formulate international law, but should grow into a true regulating, if not an actual governing, body, to the marked promotion of justice in the conduct of nations toward one another.

II

A BIT OF BACKGROUND

On Jan. 31, 1910, William Howard Taft, then President of the United States, addressed the following letter to the author of this volume:

"I have learned with interest of the plans to found an 'American Society for Judicial Settlement of International Disputes.'

"The leaflets which you propose to publish, together with the meetings of national scope which you are planning to hold from time to time, may have a very great influ-

ence on the development of public opinion on this important subject. If the proposed Court of Arbitral Justice at The Hague becomes an accomplished fact there will still remain the task of securing the adhesion of a number of Powers to the Court, and the very important task of so cultivating opinion in various countries as to incline Governments to resort to the Court when occasion calls for it. There is no other single way in which the cause of peace and disarmament can be so effectively promoted as by the firm establishment of a permanent international Court of Justice."

Armed with this endorsement and supported further by the active sympathy of men like Elihu Root, the former Secretary of State, and Philander C. Knox, the then Secretary of State, a group of men formed the above-named Society in February, 1910. Mr. Taft accepted the honourary presidency of it and his active interest in the cause of a better world organization has grown

steadily ever since. The great arbitration treaties negotiated under him between Great Britain and the United States, and between France and the United States, but which, unhappily, failed of confirmation by the United States Senate, were the direct outcome of this movement.

At a dinner of the Society at Washington on Dec. 17, 1910, Mr. Taft said: "If now we can negotiate and put through a positive agreement with some great nation to abide the adjudication of an international arbitral court in every issue which cannot be settled by negotiation, no matter what it involves, whether honour, territory, or money, we shall have made a long step forward by demonstrating that it is possible for two nations at least to establish as between them the same system of due process of law that exists between individuals under a government."

At his side happened to be the French Ambassador. When Mr. Taft sat down

M. Jusserand turned to him and said, "Do you mean what you say?" And on receiving an affirmative reply he proceeded: "I will take you at your word and we will negotiate such a treaty between your country and my own."

A campaign of education conducted throughout the country in the interest of these treaties awakened the minds of many people to the importance of putting an end to the intolerable lack of organization in international affairs. There was but little dissent in the country at large to the principles embodied in these treaties. It is safe to say that if a referendum had been instituted the treaties would have been overwhelmingly endorsed by the American people. Unfortunately, as repeated incidents in its history show, the United States Senate is not responsive to public sentiment. It was intended by the founders of our Government to be the conservative branch of the Legislature, designed to withstand the emotional will of the peo-

ple and to register the informed will of the people. In course of time it has come to ignore both. Its actions have repeatedly illustrated the truth of this statement but never more plainly than in connection with the arbitration treaties in question. The vote of the Senate on these treaties shows only three Senators of the opposition party favouring them, while the vote of the Administration party was almost solidly in favour of them. As there is nothing whatever in the tenets of what was then the opposition party — the Democratic — against which these treaties militated, the motive for the vote of the Senate cannot be interpreted as any other than partisan: a refusal, on the eve of an election, to confer upon the Administration the prestige that would have attached to the consummation of these great treaties.

But truth is a root with long fibres. Cut away the stalk and, unless hostile powers are constantly on the watch, new shoots are apt to appear. Turning the

attention of the country in this direction made possible the adoption of the useful Bryan Treaties for obligatory inquiry, of which more than thirty have been negotiated between the United States and foreign countries. It greatly increased the influence of the Judicial Settlement Society. It gave new stimulus to the endeavour to erect a World Court. It rendered numbers of men more informed and more ready for this new movement which sprang up spontaneously in the first months succeeding the outbreak of the Great War, namely, the movement for a league of nations to discourage future wars.

III

THE BACKWARD NATION

In 1912 the author was privileged to print a magazine article [4] which pointed to the insecurity of life and property in backward countries as "an ever-present menace to the peace of the world" and

dealt with the problem of finding "some means of sowing the seed of progress and civilization throughout the world without the sacrifice of life and the injustice which war involves." It suggested that the solution might be found "in the joint action of all the enlightened Powers of the world, big and little, to secure equal rights and political liberty . . . for the European races in backward lands." The instrumentality suggested was "a commission appointed jointly by the chancelleries of such Powers." Security against the triumph of selfish interests would be found "in the extent of the concerted action now proposed in contrast to the limited number of Powers that have participated in similar leagues heretofore." To accomplish this the League must embrace "not only the eight leading Powers, but . . . all the Powers where there are just laws administered with a fair approximation to justice. . . . One cannot but feel that substantial justice would be done by it, just as

substantial justice is done by the Federal Government of the United States to the individual communities embraced within the scope of its activities.

"If we agree to that statement — if we agree that the united will of all the enlightened Powers, acting through the commission, would result in substantial justice, then the main criticism of the project falls."

The view was expressed that "the potential force latent in such a concert of Powers need seldom translate itself into war. . . .

"At present one country alone or a small group of countries intervenes and actually administers the government of a backward country for a shorter or a longer period. The United States administered Cuba until the Cubans showed signs of being able to maintain an orderly government. When, under the independent government then set up, anarchical conditions returned, the United States entered the island a second time

and administered it until there was assurance that the voice of the Cuban people would be respected at the polls. It then again withdrew. Such fortitude and resistance to temptation are unusual in history. Neither the European nations nor we ourselves can be counted upon generally to exercise them. If, now, intervention on the part of a single country or of a small group of countries should come at the mandate of all the enlightened Powers, is there not a much greater likelihood that the temptation to remain will be resisted, and that therefore the national life of the small Powers will in the end be more secure than at present? "

In commenting upon the suggestion, Prof. H. F. Guggenheim of Cambridge said: "No international war is likely to be carried on without either real or imaginary anticipation of some gain. And the backward nation today presents the only possibility for a profitable war." He expressed the view that the sugges-

tion "cannot be too seriously considered."

Count Albert Apponyi said of the plan: "It will probably secure peace in most cases because no backward nation would dare resist the joint applications of so many Powers and because the particularly interested ones among the latter would be prevented from quarrelling about their claims, the whole question being lifted up into the higher domain of principle."

The comment of Prince di Cassano of Rome contains the following passage: "What we want is a committee of absolutely free men — free of mind, free of interest — who shall act as an international *jury d'honneur* first of all to enlighten public opinion and afterwards to obtain justice and fair treatment."

Charles Francis Adams' observations on the plan pictured the actual working of it as follows: "The issue presented would, of course, first be formulated by

one or more of the Powers in question. It would then be submitted to a tribunal in the nature of that at The Hague. The backward nation in question would then be invited to appear before this tribunal. The tribunal would in due process make its report; and it would be communicated to all the parties it represented, together with the recommendations of the tribunal as to how its report and recommendations should be made effective. It seems to me the world has now advanced to that point when such a mandate, properly expressed, in a firm but kindly way, would work its own results. Should it fail to do so, the question of its enforcement through the joint action of the Powers from which the complaint had emanated would present itself. It would then become a practical question which would call into operation the diplomatic agencies and the capacity, so to speak, of 'getting there' on the part of the tribunal. On this head no general rules could be laid down;

but the problem must be worked out in an effective manner through the good judgment and the capacity for accomplishing results of those in charge. In this, as in other things, something must be left to time and the process of natural development."

IV

VEERING OF OPINION

All the existing institutions at The Hague are voluntary: that is to say, nations may or may not resort to them, as they see fit. The advocates of the new World Court provided for by The Hague Convention under the name of the Court of Arbitral Justice almost to a man believed that this new institution should likewise be purely voluntary in character. They discouraged the idea of the use of force to hale nations into Court, or to execute the judgment of the Court, as not only unnecessary but harmful. Men pointed to a whole series of arbi-

trations through the greater part of a century, none of which had been thrown down by the refusal of one party alone to abide by the award, and asserted that the sense of honourable obligation, backed by the pressure of public opinion, was sufficient not only to insure the acceptance of the awards of international tribunals but to lead the progressive nations habitually to resort to this method of settling disputes in lieu of war. True, in the past few years, several of the backward countries of Latin America had thrown down arbitrations, thus breaking the splendid record of a century. But it was felt that this illustrated less a failure of principle than the actual condition of the peoples in question, peoples who ought never to have been expected to apply successfully such advanced methods.

With the beginning of the present war this reliance on voluntary institutions suffered a fatal shock. It was plain that the efforts of the Entente to

refer the Austro-Serbian dispute to a conference, efforts initiated by Viscount (then Sir Edward) Grey and supplemented by France, Italy and Russia, were brought to nought by Germany simply because Germany had decided that the time was ripe once again to set in motion its great military machine, and that it had selected a moment to precipitate war when it was Austria's quarrel so that Austria could be counted upon with certainty as an ally.

An important line of progress in the history of war has been the tendency to spare the non-combatant and confine the conflict to the armed forces of the belligerents. These helpful rules of war, so painfully bought by experience and laboriously worked out through generations of endeavour, Germany threw to the winds. And she did not stop there. Deeds which men, relying upon the common dictates of humanity, thought it wholly unnecessary specifically to forbid,

were done, not in the heat of battle, but deliberately as part of a conscious policy.

To many men the crimes committed in this war, the very assault itself, were, before the event, simply unthinkable. The whole philanthropic movement of the twentieth century and the advanced outlook of men seemed to belie their possibility. This made the shock only the greater when the scales fell from men's eyes. Many men who had hitherto opposed the use of force in the relations of States were at once convinced that it must, after all, be injected into international institutions.

The League to Enforce Peace owes its existence to that change of attitude. The men working with the Judicial Settlement Society and men outside of its ranks who had shown an active interest in a better international organization joined hands in the endeavour to make a repetition of such an assault on the

world's peace more difficult in future.

Prominent in the latter group was Mr. Hamilton Holt. In May, 1911, Mr. Holt had read a paper at Baltimore on the subject of a league of peace.[5] As originally drafted, the paper embraced the sanction of force. That feature was omitted after consultation by its author with the leading proponents of a World Court who, it will be remembered, put their faith in the development of voluntary institutions in the belief that nations would use them without other inducement than a clear-eyed perception of their own interests.

The main recommendations then left in Mr. Holt's paper related to an obligation on the part of the League to arbitrate "all disputes of whatsoever character," to use the Hague Court or such other similar tribunals as may be constituted, and to institute "a periodical convention or assembly to make all rules for the League, such rules to become law unless vetoed by a nation within

a stated period." There was to be no attempt to limit armaments.

The paper excited only academic interest. There was no endeavour on the part of individuals or groups to realize the plan. The Secretary of State, Mr. Knox, had already suggested, in the previous year, that the time would come "when the nations of the world shall realize a federation as real and vital as that now subsisting between the component parts of a single State." [6]

As early as 1899 William T. Stead, borrowing a title previously used by Victor Hugo, had published his "United States of Europe," embodying the views of leading statesmen and sovereigns on the subject of improved international organization.

Theodore Roosevelt had likewise suggested in 1910 that the Great Powers should form a League of Peace "not only to keep the peace among themselves but to prevent, by force, if necessary, its being broken by others," and to that end

should institute an international police.[7]

At the time of their presentation few men believed that agitation in favour of any of these plans would lead to practical results in our day.

But immediately after the beginning of the present war the subject was again put forward by Mr. Holt who had taken it up anew in association with the directors of the New York Peace Society.[8] The philosophy of this new plea of his was that "Peace follows justice, justice follows law, and law follows political organization." This time the suggestion, which spoke the thoughts of many men — i.e., was really in the air — excited a great deal of attention. It offered something around which men could centre a positive effort. Important comment was at once forthcoming.[9] John Bassett Moore declared the principle to be sound. While pointing, as a precaution against over-confidence in the uninterrupted workings of such a plan, to the

impatience which men often display of legal restraint and to organized revolt within the State against such restraint, he said: "No doubt one of the best assurances against indulgence of this propensity is a regulated governmental control, and for this reason I applaud your advocacy of a practical step toward international federation for attainment of that end, without intending, however, to countenance the supposition that we may slumber upon any contrivance, parliamentary, judicial or otherwise, municipal or international, as an all-sufficient safeguard against outbreaks of violence."

Richard Olney said: "The merit of your proposal is affirmed by the experience of the people of the United States under their national Constitution — not as being a certain preventative of war but as clearly tending in that direction."

Arthur T. Hadley: "I am consoling myself for the evils of the present war

by the thought that at the end of it we may see something of the kind put into effect."

The present writer ventured the statement that we were at a turning point in history, that the war would result in good or in accentuated evil, accordingly as the right-minded nations saw their duty, and that if we could secure a promise from the Entente to join such a league "as a condition precedent to our doing what we ought to do anyway, namely, vent our righteous indignation at the way in which Germany has outraged Belgium and has trampled under foot the law of nations and the moral law alike, we should be accomplishing the double object of helping to crush militarism and of setting up an institution which might bring about a marked decline of war."

V

EXAMINING THE PROBLEM

Instead of launching the project at a public meeting, as was first suggested, the conclusion was reached that better results would follow if there should be a careful study of the subject beforehand, first by a group of purely scientific men and later on by men of larger practical experience. That plan was carried out.

At the invitation of four individuals, a group of about twenty scientific men met at dinner at the Century Club in New York on three separate occasions.[10] The group embraced professors of political science, of international law, of history, and of economics. The subject was thrown into the arena and torn to pieces at meetings lasting well into the night. In this way was worked out what was regarded as a "desirable" plan.

The discussions are reflected in a paper, "World Court and League of

Peace," published by the Judicial Settlement Society in February, 1915.[11] The difficulties to be overcome in order to secure such a League, its advantages and dangers, the forces which would tend to hold it together and those which would incline to disrupt it, are there considered.

Only nations whose aim is justice and whose practices make for justice should be admitted to the League. Backward countries should not be included for the reason that a nation which cannot maintain law and order within its own borders and is either unable or unwilling to carry out its international obligations cannot lend strength to a League. It would actually be a source of weakness to it. On the other hand, the League should if possible embrace all the progressive Powers, namely, the eight Great Powers, the Secondary Powers of Europe (except the Balkan States and Turkey), and the "ABC" countries of South America.

In several of the countries in this

group democracy is no longer regarded as a passing phase of political development but as a permanent fact in politics. These common ideals would tend to hold that group together. Two of the proposed members, Great Britain and the United States, may be said to be satisfied territorially. While the smaller progressive countries in the group, such as Switzerland, Denmark, Norway, and Sweden, have no disturbing ambitions.

The play of interests in such a large group would make for justice. The League would not be instituted unless it embraced an overwhelming preponderance of military power, and, if it was both strong and just, its potential strength need seldom translate itself into war. Such a comprehensive circle of Powers is all the more necessary when it is proposed, as in this original plan, to enforce the judgment of the Court or award of the arbitral tribunal, because of the danger of oppression connected with such purpose.

To prevent all appearance of aggression, the League was intended to operate only on its own members. That of course left them open to attack from outside and precluded any demand for a reduction of armaments. But the latter problem is hedged about with so many difficulties anyway that the balance of gain is in favour of this position. No headway can be made against the armament evil until time demonstrates the fact that the League is able not only to defend its members in emergencies but is itself able to hold together in stress and storm. Until such time, for example, Great Britain could not well be asked to impair the strength of her great fleet. The Great War and its accompaniments have resulted in a shock to confidence — confidence in the binding force of treaty obligations, confidence in international law, and confidence in the upright intentions of the neighbour. No matter what the issue of the war, we are therefore apt, for a time, to witness armaments going

on at an accelerated pace. But once the German menace is definitely removed by a change of spirit on the part of the German people, the world may not only work back to its normal condition, but the existence of a league of nations — after it shall have established general confidence in its ability to do what it is designed to do — must eventually bring about an actual amelioration of the condition of armed peace existing before the war. It is believed that, under the League, abatement of armaments will come about naturally through disuse just as, in frontier communities, when men find that the law and the Courts are able to protect them, they lay aside the practice of going about armed.

The adoption of something in the nature of a Bill of Rights by the League was considered desirable. It would set forth great areas of principle, if we may use this term, respect for life and property, rights and duties in times of peace, and respect for new and higher rules set

up to govern the acts of nations in time of war.

VI

RACE AND ALIEN GOVERNMENT

Among interests to be so safeguarded in a Bill of Rights would be the question of equality before the law and political rights. The puzzling question of alien government would then be simplified because oppression due to difference of nationality would cease. In this connection it is important to examine a proposal put forward prominently by the Netherlands Anti-Oorlog Raad and by other groups. It is the demand for a plebiscite of the inhabitants before a transfer of territory is permitted. Theoretically this would seem to fit in with the demands of justice. Practically, serious difficulties present themselves in connection with the proposal.

In the first place, to admit this right of approval by the population of the territory about to be transferred involves

logically the right of secession. Suppose, for example, that at the end of this war the people of Alsace are consulted about restitution of the province to France, that they should approve of it and that the transfer is thereupon made. If, then, at a future time, these same people of Alsace should reach the conclusion that they had made a mistake and should demand release from their allegiance to France, could this demand logically be denied? And are we prepared to admit the right of secession whenever a local community exhibits discontent under a government? To have set up such a principle would have conceded the right of the New England States to secede from the American Union when the several waves of discontent swept over them at the end of the eighteenth century and in the early years of the nineteenth century. It would have admitted the right of the Southern States to secede when the slavery issue became acute. It would admit the right of Ireland today

to secede from Great Britain and to establish, close to the border of the home country, a separate sovereignty which might afford a foothold for an enemy attack.

Peace is secured by union, not by disruption. For generations the border of England and Scotland was the scene of bloody strife, all stilled by the union of these two countries in 1707. For fourteen hundred years after the fall of the Roman Empire of the West, Italy was torn by ceaseless wars between her city-states and between her principalities, leaving her an easy prey to the invader — all stilled by union. The mind of Cavour grasped this truth firmly and laid broad the foundations for a single Italian State which has spelled rebirth, security and progress.

For centuries men witnessed similar wars between the principalities and petty kingdoms of France. It was the very establishment of strong central government in France at an early day which

enabled her to shine as a leader in Europe in all the walks of civilization.

In Germany for long years the hand of every baron and petty noble was turned against his neighbour. There too it was consolidation which brought law and ordered progress.

In the second place the plebiscite is often a meaningless form. Certainly it has been such in France, where it has been used to confirm a *fait accompli*. For the people to endeavour to undo the thing already done would have meant anarchy. Therefore the result has usually been millions of affirmative votes against a few thousand negative votes. Napoleon Bonaparte made himself first Consul in December, 1799, organized his government and six weeks thereafter instituted a plebiscite to confirm his act. Is there any need to say what the result of that plebiscite was? When in May, 1804, he had gotten the title of Emperor conferred on him by the Senate he again invited a plebiscite with like result. Louis

Napoleon was not slow to see the advantages of this method. A plebiscite, December 20, 1851, endorsed his high-handed methods of dealing with the National Assembly and of perpetuating himself as President of the Republic in violation of the provisions of the Constitution. Next, having gathered into his hands all executive power with the right to nominate the members of the Senate and of the Council of State, through which alone legislation could be initiated, he proceeded once more to institute a plebiscite which conferred on him the title of Emperor.

Now, is not the question of a transfer of territory in much the same category? Such transfer at the end of a war has to be agreed upon in framing the treaty of peace. For the people of the territory in question to negative the decision of the Congress might mean reopening the vital issues of the war and so renewing the war. Under such circumstances, is there any doubt that the votes of the in-

habitants will simply register what the Congress has decreed? At such times, too, the men "in possession" generally get their will done. Dicey refers to the way in which, during the French Revolution, "the Terrorist faction, when all but crushed by general odium, extorted from the country by means of a plebiscite a sham assent to the prolongation of revolutionary despotism."

The real solution of the problem of race conflict lies in equal political rights.

Why are the American emigrant to Canada and the Canadian emigrant to the United States so content? Manifestly because they find in the new home justice and order, security and freedom. On the other hand, why do men of progressive races who settle in backward countries agitate for the annexation of such countries to their own and so bring on extension of empire? Is it not principally in order to secure the freedom and justice to which they have been accustomed at home?

Would the South African War have occurred if the Johannesburger had enjoyed full political rights under the Boer government? When men everywhere come to enjoy equal political rights — enabling them to help themselves to full civil rights and religious liberty — they will in course of time cease to care whether they live under this or that government.

Discontent will further tend to disappear if we add to this the system of local self-government such as obtains in the United States, where the people of the separate States govern themselves in respect of the majority of matters that touch their interests.

VII

OTHER NEEDS

The abandonment of exclusive rights of exploitation and the suppression of discrimination in the treatment of foreign nations seeking to trade with a

given State would likewise be helpful. This latter does not imply abolition of protective tariffs but simply the equal treatment of all comers, the "favoured nation" clause made universal.

It is important likewise to recognize the right on the part of a State to demand neutralization of its territory. We may expect this valuable means of extending the geographical area of peace to be revived despite the blow it has received in the present war, and to be extended to wider and wider areas under stronger guarantees than heretofore.[12]

It might be possible, too, to lay down the principle for which the United States has long contended, the exemption from seizure of private property at sea, the experiences of the present war causing all nations to see the advantages of it.

The inclusion of principles such as these in the fundamental law of the League would act as a loadstone to draw the liberal minded everywhere to the

League and so induce governments to adhere to it.

It would probably be necessary to accept the *status quo* geographical because of the difficulty of setting a limit to any attempt to correct historic injustices. It was, however, supposed that certain burning questions of this nature would be disposed of at the end of the present war and would therefore not be left to trouble the League.

Furthermore, institutions in the nature of preventive justice, previously referred to, should be set up — purely facultative institutions with no element of obligation appertaining. Peoples might voluntarily use these in the endeavour to correct local conditions calculated to ripen into real international conflicts. "The suggestion rests on the idea that publicity alone tends to correct abuses."

For the reason that the plan contemplated enforcing the judgment of the Court, etc., and that when the Court had won the confidence of men a larger and

larger number of cases would be brought before it, it was deemed advisable that the "sheriff" — the police force — should be internationally organized: a federal force, controlled and supported by the League and always ready.

We shall see how this and other features of the program were modified later on.

As conflicts of political policy could not be dealt with by a Court some other body was needed to entertain them, and a name for this was supplied — Council of Conciliation — by the printed memorandum embodying the conclusions reached by the English group, headed by Lord Bryce, which was read and considered at our third meeting.

The studies of the Bryce group were helpful to us in other ways, serving not only to clarify our ideas but above all to encourage us to proceed with a plan which had so many points of resemblance to the plan of our kinsmen over the seas.

An Executive Council and Deliberat-

ive Assembly — the latter already found in embryo in the Hague Conference and Interparliamentary Union — would be necessary.

VIII

SOVEREIGNTY

As true liberty in the society of nations, like true liberty within the State, can be secured only by a surrender of license, we did not hesitate to recommend a plan involving a modification of sovereignty.

Just as the old idea of natural rights has given way to the conception that the State has a right to do whatever it is in the interest of society in the long result that it should do, so it is becoming plain that the doctrine of absolute sovereignty set up to guard the State itself against interference by other States must ultimately give way before the conception of a society of nations. As is well known, the theory of natural rights,

which set boundaries to the activities of the State operating on its own people, was designed to protect men against the power of the autocrat. When governments came to reflect the will of the people the need for this device disappeared. The doctrine of absolute sovereignty had its origin in a similar motive. The theory was designed to safeguard the right of the individual State in a world where the powerful State was governed by few rules or precepts and was moved principally by the desire for aggrandizement. As democracy spreads, the dominating motive of aggrandizement is diminished and the desire to do justice to the sister State begins to emerge. When this happens the same ultimate test may be applied to the doctrine of sovereignty as was applied to the doctrine of natural rights.

If it is in the interests of men that nations should enjoy sovereignty full and unimpaired, well and good. If, on the contrary, sovereignty unimpaired leads

to disaster — in the shape, for example, of unjust and destructive wars — it should not be suffered to continue. The State should retain only so much sovereignty as makes for the welfare of men organized in States.

The experience of the forty-eight States now comprising the United States of America is really an application of this conception. The Union was constituted of sovereign and independent States. They surrendered sovereignty but not self-government. The separate States of the Union still govern themselves with respect to three quarters of the things that touch the public interest. Absolute sovereignty was surrendered by them in the common interest.

Now, world opinion is not ripe for a union of nations so complete as the union of the American States under a federal government. But even a rudimentary organization must be based upon this same conception, namely, the right of the society of nations to demand

of the individual States whatever it is in the interest of the race that it should demand.

Within the State the individual without wealth or influence who, in former times, was preyed upon by the powerful, now enjoys, under modern institutions, the same rights and privileges before the law as the wealthy and powerful. Just so, under a properly organized society of nations, the small State will come to enjoy security equal to that of its more powerful neighbour, a security far more ample than any doctrine of absolute sovereignty can give it under present conditions.

Society implies restraint. And a society of nations is not exempt from the rule. The one license which it has become perfectly clear the nations must surrender is the license to make war at will. Begin with that demand, make it difficult for nations to settle disputes by force, and they will seek and find other ways to settle them. That truth is at

the very bottom of the whole movement for world organization. If we take our stand upon that demand the machinery for settling disputes will come.

IX

ORIGINAL PLAN

In the *desirable* project planned by the original group we find four progressive stages:

First stage: Institutions such as we now have, supplemented by a true international Court of Justice, all of which institutions are purely voluntary or facultative.

Second stage: The element of obligation added in so far as the nations shall bind themselves to resort to these institutions.

Third stage: The further addition of an agreement to have the League act as an international grand jury to hale the would-be law-breaker before a commission of inquiry and to use

force to bring it there if recalcitrant.

Fourth stage: The final addition of an agreement to use force, if need be, to execute the award of the tribunal.

X

MODIFIED PLAN

Following our original purpose, the results of the three meetings of scientific men embodied in the *desirable* plan were now laid before a body of men of wider practical experience, the date of the meeting being fixed to suit the convenience of William Howard Taft.[13] All present at this meeting accepted without demur the first and second elements of the plan outlined above. Two men withheld their support of the third element on "entangling alliance" grounds. In the light of the discussions had, they all abstained from supporting the fourth element, which thereupon disappeared from the program of the League. It must be remembered that

the object of this meeting was to decide how much of the *desirable* plan previously mapped out was *realizable* in the present stage of world opinion.

With the disappearance of the provision for the enforcement of the judgment or award there likewise disappears the need of a central military force. And for this reason: the only demand which the League will now attempt to enforce is the demand for an inquiry before the signatories are allowed to fight.

The value of inquiry has been amply illustrated in municipal affairs in connection with labour disputes. The operations of the Hague Tribunal and the Dogger Bank Affair, brought before the International Commission of Inquiry, demonstrate its value in disputes between nations. It has been found in progressive countries like the United States that mere inquiry tends to correct not only illegal practices but unjust practices as well, often rendering unnecessary a resort to a court of justice or even to an

arbitration. In international disputes the facts brought out by an inquiry, operating not only on the opinion of the world but on the people of the offending country, would often serve to correct the injustice complained of.

What the League to Enforce Peace proposes is to take the present Bryan Treaties of obligatory inquiry, made in pairs, and make them common to all members of the League. It proposes further to add to the obligation which alone attaches to them now the element of compulsion in order to force a resort to inquiry before a nation is allowed to precipitate war. It is on the fairness and usefulness of this principle that the League program is mainly based.

Having conformed to this demand for an inquiry the signatories are free to go to war as under present conditions. No nation, however powerful, is apt to refuse such a reasonable demand if faced with the painful alternative of having to

wage war practically against the civilized world. Nations bent on aggression may go through the form of an inquiry and proceed with their aggressive plans later. But the League as such will probably never be called upon to make war. Certainly the instances in which it will be compelled to do so will be so rare that it will be sufficient to call on the members to supply their proper quotas to an international military force when the emergency arises.

The League would not try to change human nature. Altruism is a factor in its operations, but the plan still recognizes self-interest as the governing motive of States as of individuals. Only, under the League, with its pains and penalties, the self-interest of the State would now be unmistakably in the direction of keeping the peace, at least until an inquiry of the dispute had been had.

The fact that some of the Great Powers were still under autocratic government offered certain difficulties to the

successful operation of the League. In Russia, for example, the Council of the Empire carried out only so much of the Duma program as it saw fit. The members of the Council of the Empire were the personal appointees of the Czar and the Czar was reputed to be the individual who, in the last resort, decided all important questions of internal and external policy. However good his intentions might be, it was realized that the Czar's own freedom of action was greatly curtailed by malign influences having their seat in a powerful and corrupt bureaucracy. This condition has now happily been corrected by the inauguration of liberal government in Russia.

Turning to Germany, the dominant influence of its ruler was felt to be a menace to the success of the League should that country become a member. But out of this war may come great changes in Germany, too. If not, the spirit of aggression on the part of its rulers can probably be kept down by a

league so powerful that Germany will not venture to oppose its will.

XI

CRITICS

The plan to use the combined military power of the League to compel an inquiry estranged several eminent American publicists who adhered to their old belief that public opinion would in time prove all-sufficient in securing justice among the nations without resort to force. They pointed to the fact that no law is effective unless it has public opinion back of it, neglecting the equally important fact that it is public opinion plus law and the sheriff which keeps the State in order.

Prominent among these was James Brown Scott,[14] who has been one of the most devoted and effective workers, both at the Second Hague Conference and since, for a true international Court of Justice.

On the other hand, there were men who claimed that our program did not go far enough. For example, the refusal on the part of the League to stand for enforcing the judgment of the Court cost us the co-operation of one American whose services to the cause of international organization must yet be noticed. I refer to Charles W. Eliot who enjoys great authority by reason of exceptional soundness of judgment, combined with unusual penetration and high purpose.

In a series of addresses beginning some ten years ago Eliot turned his attention to the question of how to advance international good will. Pointing to the self-denying ordinance by which two countries of unequal strength, Canada and the United States, had agreed to maintain equal though insignificant naval forces on the Great Lakes, he said: "Now, that is exactly what we want all over the world — a self-denying ordinance and a police force furnished by

all the civilized nations, combined to maintain a common force." He coupled with this observation the remark that in "publicity lies the great hope of the world. . . . It is the way we are to find not only industrial peace, but peace between the civilized nations of the world."

Motives of aggression aside, the incentives to armament are fear of actual invasion and fear lest food supplies be cut off. Only international guarantees can allay these fears.

Eliot's motto is: "Peace on earth to men of good will." Force is to be applied only to "men who lack good will." Free governments tend to develop this good will.

He regards it as absolutely necessary to invent and apply "a sanction for international law, if Europe is to have international peace and any national liberty." The only way for the nations of Europe to obtain security is "by the creation of an international legislative and executive council, or other political

body, backed by an international police force."

A firm supporter of the proposed Court of Arbitral Justice, he co-operated actively with the Judicial Settlement Society, serving for a time as its president. But unlike the other leading advocates of the Court project, he believes that the interests of durable peace require the maintenance of an international force to execute the orders of the Court. It was because the program of the League to Enforce Peace omitted this feature that he declined to associate himself actively with the League when invited to do so. But Eliot accepts wholly the conception of "a strong union of nations leagued together to maintain peace."

It will be seen that what he believes in the organizers of the League to Enforce Peace also believe in and look forward to. They differ simply in their respective estimates of the "realizable" in the present state of world opinion.

XII

LAUNCHING THE PROJECT

But to return to our narrative. It was Mr. Taft who took the agreement reached by the meeting, and himself drafted the four articles constituting the platform of the League. The program was limited to these few simple demands in the belief that they constituted the essential elements of a rudimentary world organization to discourage war, that it would be much easier to get nations to adhere to such a program than to a larger or more detailed one; and that, having once committed themselves to it, all further problems of organization or of scope could be worked out successfully by the envoys charged with the duty of framing the actual convention.

We were now ready to launch the project at a public meeting. Independence Hall at Philadelphia was chosen as the

place of the meeting. It was at this historic hall that the Declaration of Independence was signed and that the Constitution of the United States was drafted. Therefore to hold the meeting there — a meeting called to frame a Declaration of *Inter*dependence of the Nations — was calculated to appeal to the imagination of the country. And it had that effect. It was there that the name of the association was changed from that of League of Peace to League to Enforce Peace. The League planned was fundamentally a league to compel inquiry before nations are allowed to fight. Any such title, however, would have been too long and as the temper of the times called for the use of force to prevent a nation from wantonly precipitating war as the present war had been precipitated, it was decided to emphasize this idea in the title of the League. There were one or two minor changes in the program, but on the whole it stands as Mr. Taft originally drafted

it.[15] Mr. Taft generously accepted the presidency of the association and has been untiring in his analysis and exposition of its aims and possible workings.

Following the Philadelphia meeting, the attention of the League was turned to the side of propaganda. State branches were formed and even minor groups until the work was organized over the greater part of the United States much in the manner of a political campaign. The object of this movement was to cultivate opinion which would make itself felt in the United States Senate. We realized that the danger to the success of the project lay there. It thus became a duty to develop in the country not merely passive opinion favourable to the League but opinion so positive as to impress itself on the Senate.

Like measures have a way in this world of not bringing like results when they act on that complex creature, the human being, instead of on things. Although

the popular campaign to support the Taft treaties failed, it does not follow that a similar campaign to have the Senate see the light in respect of the League of Nations project will be equally void of result. We have hope.[16]

XIII

PUBLIC DISCUSSION

It is impossible here to go fully into the discussion revolving around the League's program in America. But a brief reference to it may serve to bring out the possible workings of the project.

The two main lines of attack were on the ground that membership in the League would weaken the United States in respect of the Monroe Doctrine and would bring about an entangling alliance.

Under the former head the critics advanced a hypothetical case involving a dispute between the United States and Mexico over the lease of Magdalena Bay by the latter to Japan[17] — all sup-

posedly members of the League, and asked: "Would the United States submit that question to a tribunal where it has but one vote or one voice, and permit its entire future to be disposed of by a Court where it has but a single representative?"

The manifest answer was that in this case the United States would run no risk whatever of having its entire future "disposed of by a Court" for the simple reason that, under the League agreement, neither the judgment of a Court nor award of the Council of Conciliation is binding. True, in numerous instances nations would previously enter, voluntarily, into a preliminary agreement to respect the decision of the international tribunal, but in the absence of such special agreement they are not bound by it.

With Japan and the United States both members of the League, the case supposed, being a conflict of political policies, would go to the Council of Con-

ciliation. Naturally the United States would abstain from any preliminary agreement to respect the decision in so vital a matter. The chances are that the tribunal would not even proceed to a finding, but would content itself with bringing out the facts — permitting the United States to show that the acquisition by Japan of Magdalena Bay would be a menace to its own safety and in violation of a policy which, although not a part of international law, was yet a cherished ideal of the United States of long standing.

Pending the inquiry Japan would be estopped by injunction from proceeding with the objectionable act of taking possession of, and possibly fortifying, Magdalena Bay. This injunction would be supported by the full power of the League and during the period of the inquiry the Monroe Doctrine would be safer than under present conditions. If, when the inquiry was at an end, both Mexico and Japan persisted in their ob-

jectionable course, the United States would then be free to go to war without violating its agreement with the League.

Moreover, the obligation to resort to inquiry before fighting, which would rest on the United States under the League, already rests on it under the Bryan Treaties of obligatory inquiry. *It would not be estopped, under the League agreement, from doing anything whatever which it is not already estopped from doing by its plighted word given in the Bryan Treaties.*

In respect of entangling alliances the case was imagined of the United States, under the proposed League, being compelled to join in an attack on Argentina because the latter had refused to submit a dispute with a European Power to "an international tribunal or to a council of conciliation." The answer here was that no such obligation would rest on the United States in the premises. There is only one act which calls for the use of force by the League, namely, mak-

ing war upon a fellow signatory without previous resort to inquiry or honest effort to secure such. To compel the United States to move against Argentina, the latter must be the aggressor, must begin the fighting, without having previously conformed to the requirement regarding an inquiry, the two-fold object of which is to bring out the facts so that the world and the people of the contending countries may know what the quarrel is about, and to afford time for sober second thought. It must indeed be a poor case which a country cannot afford to submit to mere inquiry. And if any country, our own included, persists in precipitating war without having conformed to so reasonable a demand — being free to go to war afterwards — it deserves to be disciplined.

The answer to the group who think a World Court all-sufficient was that men who see the question whole realize that, as a deterrent of war, the Court will have very little immediate effect.[18] When,

through its decisions, it shall have helped build up international law, and when, through its very existence, the codification of certain spheres of international law shall have been invited, it will make for peace. But that is a slow process, and even then the number of wars which it is likely to prevent will be small, because wars arise not out of justifiable disputes, but out of conflicts of political policy which the Court is not constituted to entertain.

Moreover, the proposed Court, like all existing institutions at The Hague, will be a voluntary institution. Men who, previously to this war, held the view that public opinion, so highly commended by this group, might in the end be effective in compelling resort to international tribunals, have reached the conclusion that the world cannot wait for that ideal state of mind to come, that such a thing as the present war is intolerable to civilized men, and that the element of force must be added in order to

discourage men from attempting it again. This is what the League to Enforce Peace plans to do by its demand for an inquiry before nations are allowed to fight. That is a reasonable demand — the demand for an inquiry. It does not mean that nations will be prevented from going to war for a righteous cause or even an unrighteous cause. It means only that they must give us a chance to make up our minds beforehand whether or not it is a righteous cause.

Trouble for the League was foreseen in determining who begins a war; the danger of interpreting, as the critics put it, as an act of aggression that which a nation may itself consider an act of self-defence.

That problem, it was pointed out, is not so difficult of solution. It will be remembered that, at the beginning of the present war, France retired her forces a certain number of kilometres within her own borders. If some such practice as this were set up, there would be a simple

geographical fact to determine, namely, the locus of the first battle. This would determine the action of the League, because the program of the League at present does not extend to an attempt to insure justice, though it will make for justice. All it does is to compel inquiry before fighting. And it proposes to penalize the signatory which makes war upon a fellow-signatory without going through the form of such inquiry. It is the act of making war, and no other, which will call for war by the League. True, the beginning of hostilities at sea would be more difficult of determination; but in times of tension it would clearly be the duty of the fleets to keep out of the opponent's waters. There could be no great naval battle unless there was an actual entry into the waters of one Power by another, or unless the fleets came out into the open sea purposely to meet each other. *Any minor incidents could be composed by inquiry and indemnity, and need not necessarily lead to*

war. That difficulty is, therefore, not insurmountable.

Again it was asked whether, had the League agreement been in operation during the Vera Cruz affair of Apr. 12, 1914, the world's interest would have been served by the military forces of the Great Powers moving against the United States on account of this incident. The answer to this question was twofold:

(a) The obligations of the League will extend only to its signatories and it is not proposed that backward countries like Mexico shall be admitted to it.[19]

(b) If the dispute had been with a progressive Power, instead of with Mexico, the United States would have gone through the form of an inquiry, being protected against repetitions of the injury during the inquiry, as already suggested, by the power of injunction lodged in the League. If the inquiry failed to serve its purpose, that is to say, if after the inquiry the offending

country should again commit the acts objected to, the United States would be free to make war on it without being visited with any penalties at the hands of the League.

Under either of these alternatives, it will be seen, the situation pictured, calling for the employment of the armies and navies of the Great Powers against the United States, would not arise under the League.[20]

It is urged that it might be necessary to admit certain backward peoples, such as the Balkan States, because their geographical position would make their military power count in the ranks of the League's possible enemies. This is a serious argument, to be pondered against the fact that the presence of poorly governed States in the League would be an element of weakness to it.

To admit a few States from which a strong purpose of justice was absent might not do much harm, since they would be wholly outweighed in the

League's councils. But to receive a number of States of this character would doom the League to failure. The argument that the leading Allies are bound to advocate the admission of Serbia and Montenegro because they are at present brothers in arms is not conclusive. If Germany, under a changed dynasty and régime, becomes a member of the League, as we hope she will, the omission of Turkey from the list may well be claimed to offset the omission of Serbia and Montenegro.

XIV

INFLUENTIAL SUPPORT

The first indication of President Wilson's sympathy with the idea of a league of nations came in a speech at Des Moines, Feb. 1, 1916, where he used these earnest words: "I pray God that if this contest have no other result, it will at least have the result of creating an international tribunal and producing

some sort of joint guarantee of peace on the part of the great nations of the world."

In his address to the League to Enforce Peace at Washington, May 27, 1916, Mr. Wilson expressed the confident belief that the United States would be ready, at the proper time, to join "an universal association of the nations . . . to prevent any war begun either contrary to treaty covenants or without warning and full submission of the causes to the opinion of the world — a virtual guarantee of territorial integrity and political independence." His position, thus proclaimed to the world, attracted widespread attention abroad and caused the movement to be taken much more seriously by foreign governments and peoples.

The platform of the Democratic Party, of which party Mr. Wilson was the candidate for re-election to the Presidency, contained the following: "The world has a right to be free from every

disturbance of its peace that has its origin in aggression or disregard of the rights of peoples and nations: and we believe that the time has come when *it is the duty of the United States to join with other nations of the world in any feasible association that will effectively serve these principles*, etc."

In August the President was authorized by act of Congress to invite the Great Powers to a conference after the war with the object of promoting "an organization, a court of arbitration, or other body, to which disputed questions between nations shall be referred for adjudication and peaceful settlement and to consider the question of disarmament and submit their recommendations to their respective governments for approval."

Several State Legislatures had previously endorsed the program of the League to Enforce Peace.

In the course of the presidential campaign Mr. Wilson made frequent refer-

ence to the subject of a League, never more eloquently than at Cincinnati, Oct. 27, 1916, when he said: "The nations of the world must get together and say, 'Nobody can hereafter be neutral as respects the disturbance of the world's peace for an object which the world's opinion cannot sanction.' The world's peace ought to be disturbed if the fundamental rights of humanity are invaded, but it ought not to be disturbed for any other thing that I can think of, and America was established in order to vindicate, at any rate in one Government, the fundamental rights of man. America must hereafter be ready as a member of the family of nations to exert her whole force, moral and physical, to the assertion of those rights throughout the round globe."

To what extent an election gives the successful party a mandate on this or that particular issue in a long series of issues must always remain uncertain. But significance attaches to the very in-

sertion of the League plank in the Democratic platform as reflecting the opinion of politicians that it would advantage the party, and to the further fact that the principle so endorsed was not combated by the opposition party in the course of the campaign. In fact, the opposing candidate, Charles E. Hughes, expressed most hearty approval of it. In his address at Baltimore, Oct. 10, he pointed to the need of organizing peace through provision for the adjustment of international disputes by judicial methods and by conciliation, backed by appropriate means to secure resort to such methods, and by frequent conferences called to correct trouble-brewing conditions. He expressed the desire to see the United States give these measures its full support and, moreover, aid them in a practical way by manning its State Department and diplomatic posts with the best talent.

Mr. Taft, former President of the United States under a Republican ad-

ministration and a most convincing speaker, took an active part in the presidential campaign, and embraced every opportunity to advance the cause of a league of nations.

One of Mr. Taft's important contributions consisted in showing that for the United States to assume the responsibility that would devolve on it under the League would not be extra-legal, that the Government already has full power under the Constitution to do this thing and is in fact doing it now under the treaties by which it guarantees the integrity of Cuba and Panama.

In other words, to enter the League agreement would not be delegating the power to make war, which power resides in the Congress alone. As previously stated, when the conditions calling for war arise under the proposed League compact, as under the treaties with Cuba and Panama, it is still the Congress of the United States which, in discharge of treaty obligations previously assumed,

will actually be called upon to declare war before the United States can go to war. Of course minor military operations are not dignified by the name of war and may be undertaken at the instance of the Executive Department of the Government alone. Such was the participation of the United States in the expedition to Peking in the Boxer uprising, its second entry into Cuba to re-establish orderly government in 1906; and such is the expedition in which it is engaging to help suppress insurrection in Cuba at the very moment this treatise is being written.

The conviction on the part of Mr. Wilson that the United States was ready to join a league of nations in the interests of peace discloses itself especially in his remarkable message to the Senate, Jan. 22, 1917. After stating that it is taken for granted that peace at the end of the present war "must be followed by some definite concert of power which will make it virtually impossible

that any such catastrophe should overwhelm us again," he says: "It is inconceivable that the people of the United States should play no part in that great enterprise." . . . "That service is nothing less than this — to add their authority and their power to the authority and force of other nations to *guarantee peace and justice* throughout the world." This organized force must be so preponderant that no nation or probable combination of nations can withstand it.

It will be observed that President Wilson refers to guaranteeing peace and justice. To undertake either of these things would be going much further than is proposed by the League to Enforce Peace.

The first would mean that no signatory to the League agreement would be allowed to go to war with a fellow-signatory even after it had conformed to the demand of the League for an in-

quiry into the dispute, and, furthermore, that the operations of the League would extend even to non-signatories. That is to say, that it would forbid war everywhere under all conditions.

To realize the second of President Wilson's aims, i.e., to guarantee justice, would mean that the judgments and awards of the Court and Council of Conciliation must be enforced. This is something to which the League, it is true, looks forward as a certain outcome of the movement in the fulness of time but for the immediate inauguration of which it had not hoped. The position of the American group is that it will certainly not combat the President in these lofty aims. It wishes him godspeed. If the larger purpose can be achieved now, so much the better. At the same time it will abstain from enlarging its own program, in the belief that when the test comes it will be found that the more modest program is the one which is

alone capable of realization in the present stage of world relations and opinion.

In his epoch-making war message to the Senate, Apr. 2, 1917, President Wilson said that his aim was still "concert of purpose and of action" among the nations to make peace and justice secure, and added these significant words: "A steadfast concert for peace can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants. It must be a league of honour, a partnership of opinion. Intrigue would eat its vitals away; the plottings of inner circles who could plan what they would and render account to no one would be a corruption seated at its very heart. Only free peoples can hold their purpose and their honour steady to a common end and prefer the interests of mankind to any narrow interest of their own."

The danger to the peace of the world residing in autocracy, a danger pointed out long ago by Kant, has been revealed anew and in awful guise by the present war. But autocracy will not disappear unless democracy shall prove itself its equal in war. That is an issue which the Great War has thrust upon the stage as never before.

Democracy, with all its priceless, proven advantages to men, is always practised at the cost of efficiency in government. It is at the cost of efficiency in time of peace and more so in time of war. Of course autocracy, by becoming tyranny, may result in misrule, immeasurable inefficiency, corruption and injustice. But given equal ability in the people and honesty in administration, an autocratic government can go more directly to its goal, can go farther and save time and waste. The recognized weakness in it as a permanent system is the difficulty of making sure that the autocrat will prove to be a benevolent autocrat. No

system that men have devised has succeeded in solving that problem. The principle of heredity certainly does not solve it, and in the absence of heredity the death of the ruler may be the signal for civil war if not anarchy.

Justice is the growing purpose of the world and it has become clear that, by and large, justice is best secured under free institutions. Liberty, hallowed and inspiring though the term may be, is, after all, only a means to an end. That end is justice. Political liberty alone does not insure justice. A powerful class, either an hereditary aristocracy or conspirators in commerce and industry, as we know to our cost, may oppress the people independently of the State. If vigilance is the price of freedom from oppression by the Government it is no less the price of freedom from oppression by groups outside the Government. Sound institutions are meaningless unless practised by a people bent on making use of

them. Witness the many States, particularly in the Western Hemisphere, with ideal constitutions and admirable laws, in which there exists anything but liberty. In fact, in some of them, where the people are too ignorant or lack purpose, the only time we find "law and order" and security of person and property is when the constitution is tossed into the sea and an efficient dictator establishes himself in power, frequently perpetuating his own rule. Form of government is, then, not a test of democracy. If we are seeking democracies to constitute a league of peace we must look beneath the form to the substance.

Leaders of thought in Germany regard even true democracy as still an experiment. They assert that while we in the United States, for example, met the political test in the Civil War we have yet to meet the social test which can come only when the land shall be overcrowded and we face numbers of the disinherited

with the franchise in their hands. They believe their form of government to be superior and therefore do not hesitate to endeavour to impose it, as part of their "kultur," on the rest of the world. It remains for the democratic peoples to demonstrate their capacity to think true in a time of world-crisis, to choose right leaders, to have the courage actually to surrender for the time being their customary privileges and even their constitutional liberties in order that these leaders may meet the centralized organization of autocratic Powers with equal organization. Whatever may be said of the need of a democratized world as a condition precedent to the successful functioning of a league of peace, this much is true: the league will not even come into existence if the autocratic Powers win the present war.

XV

ABROAD

The duty of securing foreign co-operation in the movement rested on a special committee.[21] The writer, who was rashly entrusted with the chairmanship of this committee, was in England for two months in the winter of 1916. He prepared an article for *The Nation*,[22] conferred with many individuals on the subject, and addressed several groups. Lord Bryce was most generous of his time and most helpful in this connection. Through his instrumentality the writer was given an interview at the Foreign Office on Mar. 17 with Viscount (then Sir Edward) Grey, who declared his hearty sympathy with the project of the League and expressed the view that if some such plan had been in operation when the present war threatened, Germany would have been forced to accept the offer of a conference and the war

would not have been. He added that he would even go further than our program: he would enforce the judgment or award if the people would stand for it. Like Mr. Taft he felt that, in the general interest, nations should face the possibility of an occasional adverse decision and be willing to submit all questions to arbitration or judicial decision.

But several attempts to draw from him an expression of opinion as to whether the Great Powers would in fact accept this additional feature of a common agreement brought no result. It was evident that he himself entertained doubts on this score. And here let it be said that, while enforcement of the judgment of the Court or award of the tribunal of inquiry and conciliation would undoubtedly make for justice and put a much more effective check on war, great practical difficulties stand in the way of getting such a program accepted. For example, the United States might have up the question of the Monroe Doctrine,

Japan the question of Korea or Manchuria or of her influence in China, Great Britain the question of Gibraltar or Egypt or India. Would the governments of these countries consent to enter into a league which compelled them not only to submit such questions for a hearing but also to abide by the award?

There is a general feeling among the advocates of the League, both in England and in the United States, that, in contradistinction to the awards of the Council of Conciliation, the judgments of the Court, supposed to deal with purely justiciable matters, should be enforceable. As already indicated, the difficulty is that some tribunal, preferably the Court itself, must pass upon the question of jurisdiction. So the query again immediately presents itself: Will the Great Powers consent to enter into an agreement which involves the risk of having questions which may not be purely justiciable, questions which may really arise out of conflicts of political policy,

interpreted as justiciable questions and so brought within the area of compulsory settlement? In a letter addressed to the writer on Jan. 11, 1916, Lord Bryce said: "To me your plan of compelling recourse to arbitration, rather than using compulsion at a later stage, seems the better plan."

At this time Lord Bryce's group was still at work on its enlightening examination of the project. The Fabian Society, the League of Nations Society, and several individuals had published most helpful studies of the problem. G. Lowes Dickinson, who was a leading member of several English groups and who had presented some of the results of their studies in an American magazine, was on a special pilgrimage to the United States to confer with the leaders there. From the beginning there has been a desire on the part of both the American and English groups to have their programs harmonize, and in all essentials they really do harmonize.

Following the interview with Sir Edward Grey the writer made to him by letter (Mar. 25) the suggestion that "just as Lincoln, in the middle of our Civil War, won the sympathy of the world for the Northern cause by his Proclamation of Emancipation, so Great Britain and her allies would greatly advance their cause, already strong, in the neutral world, and would at the same time stiffen the purpose of their own peoples and armies, by declaring for 'some sort of joint guarantee of peace on the part of the great nations'— President Wilson's phrase — to be set up after the war." In his reply, dated Apr. 7, Sir Edward stated that he was entirely in sympathy with what had been urged, that the difficulty was in making public announcements at a time and in language which prevented them from being misunderstood, but that the matter would be kept in mind.

While Sir Edward's general attitude on European affairs pointed to him as a

man likely to sympathize with the movement for improved international organization, he had said nothing in public recently to indicate approval of the project. Going back, however, to 1911, we find him asserting in the House of Commons (Mar. 13) that the disastrous effects of modern wars on the neutral as well as on the belligerent would tend to bring nations together in an agreement to keep the peace of the world. He predicted that we would not get limitation of armaments until nations, like individuals, came to regard an appeal to law, not force, as the natural course for them to take. But he did not consider it impossible that some day they may discover that "law is a better remedy than force, and that, in all the time they have been in bondage to this tremendous expenditure, the prison door has been locked on the inside." . . . "Some armies and navies would remain, no doubt, but they would remain then not in ri-

valry with each other but as the police of the world."

His proposals to Germany on the eve of the war of course involved the idea of joint guarantees as did his letter to the press Aug. 26, 1915, in which he said: "If there are to be guarantees against future war, let them be equal, comprehensive and effective guarantees that bind Germany as well as other nations, including ourselves." Sir Edward had also said in the House of Commons, Jan. 26, 1916: "But the great object to be attained — and, until it is attained, the War must proceed — is that there shall not again be this sort of militarism in Europe, which in time of peace causes the whole of the Continent discomfort by its continual menace, and then, when it thinks the moment has come that suits itself, plunges the Continent into war."

On his return home the writer felt at liberty to announce Sir Edward's ac-

ceptance of the plan of the League to Enforce Peace and made mention of it at a dinner in New York, May 12, 1916. This, the first public announcement since 1911 that he supported the idea of a league of nations, appeared in the American press and was transmitted as a Central News dispatch to the English press. On May 13 there likewise appeared in the Chicago *Daily News* Edward Price Bell's important interview with Sir Edward. It is there said: "Long before the war Sir Edward hoped for a league of nations that would be united, quick and instant to prevent, and, if need be, punish violations of international treaties, of public right, and of national independence, and would say to the nations that came forward with grievances and claims: 'Put them before an impartial tribunal; subject your claims to the test of law or the judgment of impartial men. If you can win at this bar you will get what you want; if you cannot you shall not have what you want;

and if you start war we shall all adjudge you the common enemy of humanity and treat you accordingly. As footpads, burglars, and incendiaries are suppressed in a community, so those who would commit these crimes and incalculably more than these crimes, will be suppressed among the nations.'" This article was followed by a second public declaration in the form of an open letter addressed to Mr. Herman Bernstein, New York, dated June 5, 1916, in which he expressed the belief that the best work neutrals could do was to cultivate opinion in favour of an agreement between nations which would prevent a return of such a catastrophe as the present war. Then came Sir Edward's address to the representatives of the foreign press in London, Oct. 23, 1916, embodying a most positive and direct approval of the League to Enforce Peace in these words: "In the United States a league has already sprung up, supported by various distinguished people, with the object,

not of interfering with belligerents in this war, but of getting ready for some international association, after this war is over, which shall do its part in making peace secure in future. I would like to say that if we seem to have little time to give to such ideas ourselves while we are engaged in this struggle, such a work in neutral countries is one to which we should all look with favour and with hope. . . . We say to neutrals who are occupying themselves with this question that we are in favour of it. . . . The object of this league is to insist upon treaties being kept and some other settlement being tried before resort to war. In July, 1914, there was no such league in existence. Supposing a generation hence such a condition of things as in July, 1914, recurs and there is such a league in existence, *it may, and it ought to keep the peace.* Everything will depend upon whether the national sentiment behind it is so penetrated by the lessons of this war as to

feel that in the future each nation, although not immediately concerned in this dispute, is doing something, even if it be by force, to keep the peace."

Finally the distinguished Secretary of State for Foreign Affairs, now become *Viscount* Grey, sent to the League the following cable, read at their New York dinner Nov. 24: "I think public utterances must have already made it clear that I sincerely desire to see a league of nations formed and made effective to secure future peace of the world after this war is over. I regard this as the best, if not the only, prospect of preserving treaties and of saving the world from aggressive wars in years to come. If there is any doubt about my sentiments in the matter, I hope this telegram in reply to your own will remove it."

In this history of the American movement Viscount Grey's attitude is dealt with in detail because he has been its best and earliest friend among the statesmen in power in Europe, because his open

support influenced the attitude of other European statesmen, and because the endorsement of the project by these men, added to the acceptance of it by President Wilson, made it plain that the question was no longer merely academic but had entered the realm of practical politics.

Among the various references by Mr. Asquith, while Prime Minister, to concerted action to prevent war, the following statement of the conditions on which the triumph of public right must ultimately depend probably stands out as the most direct and satisfactory:
"safeguards resting upon the common will of Europe, and I hope, not of Europe alone, against aggression, against international covetousness and bad faith, against the wanton recourse in case of dispute to the use of force and the disturbance of peace; finally, as the result of it all, a great partnership of nations federated together in the joint pursuit of a freer and fuller life, etc."[23]

A similar hearty approval of the movement is disclosed by Arthur J. Balfour in the interview with Edward Marshall which appeared in the London *Times*, May 18, 1916. In it we find the assertion that international law must remain weak "so long as it is unsupported by international authority." . . . "Law is not enough. Behind law there must be power." While favouring arbitration and the discussion of differences by would-be belligerents before peace is broken, including special care for the security of small States, he held that "all the precautions are mere scraps of paper unless they can be enforced. We delude ourselves if we think we are doing God service merely by passing good resolutions. What is needed now, and will be needed so long as militarism is unconquered, is the machinery for enforcing them; and the contrivance of such a machinery will tax to its utmost the statesmanship of the world."

It should be noted in passing that Mr.

Balfour, like Mr. Wilson, sees the need of a league which shall also have power to enforce the judgment of a central tribunal. Is it his belief that such a league can be instituted in our day? [24]

XVI

FRENCH AND GERMAN VIEWS

Approval of the project by such men convinced a great number of Americans that the plan was practical. An equally important result was its effect on Continental opinion. About the middle of September the French Premier, M. Briand, made reference to "a solid lasting peace, guaranteed against any return of violence by appropriate international measures." This utterance was followed by a letter addressed to the author on Oct. 25, 1916, indicating wholehearted approval of the project of the League. M. Briand's generous letter, publication of which was authorized at

the time of its transmittal by the French Embassy at Washington, embodies a personal touch but was intended none the less for the League. It reads in part:

"In basing your effort on the fundamental principle of respect for the rights and wishes of the various peoples of the world, you are certain of being on common ground with the countries which, in the present conflict, are giving their blood and their resources, without counting the cost, to save the independence of the nations.

"No one is better qualified than you to understand these sacrifices because, despite the neutrality of your country, you have experienced it in your closest affections in the person of a son, seriously crippled in the service of the Allies. In rendering homage to that heroism, I can only express the desire that the noble ideas which inspired him may guide equally your League in its attempt to visit, with the heaviest penalties, the

States whose avowed aim is the subjugation of the peoples and the destruction of liberty."

The German Government likewise formally approved the principle of a league. Its Chancellor, von Bethmann-Hollweg, overlooking the part which Germany had played in bringing on the "monstrous catastrophe," said in the *Reichstag* on Nov. 9: "When at and after the end of the war the world will become fully conscious of its horrifying destruction of life and property, then through the whole of mankind will ring a cry for peaceful arrangements and understandings which, as far as lies in human power, shall avoid the return of such a monstrous catastrophe. This cry will be so powerful and so justified that it must lead to some result. Germany will honestly co-operate in the examination of every endeavour to find a practical solution of the question and will collaborate to make its realization possible. . . . The first condition for evolution of

international relations by way of arbitration and peaceful compromise of conflicting interests should be that no more aggressive coalitions are formed in future. Germany will at all times be ready to enter a league for the purpose of restraining the disturbers of peace."

What an awakening! Let us hope that it will be a chastened Germany which will knock at the door of the League for admission. A Germany which had scotched the snake, Prussianism, a Germany in which the people ruled under constitutional government, would not knock in vain. On the contrary it would be welcomed heartily at the council table of the nations.

XVII

FORMAL COMMITMENT

Although we realized that such utterances by responsible men could not have been made without consulting their colleagues, they amounted, after all, to little

more than an expression of opinion. It was as if Lincoln, instead of issuing his great proclamation, had said: "In my opinion slavery ought to be abolished after the war." How different the effect of such an utterance from the actual proclamation! The fact will be recalled that Lincoln's proclamation was made in September to take effect the following January. Lincoln knew perfectly well that the proclamation, which was aimed alone at the States in rebellion, could not take effect until these States were brought back under the jurisdiction of the Federal Government. It was plainly a commitment to a course of conduct at a future time. But, once having made the commitment, was it likely that any weariness of the war on the part of the North or of the President himself would induce the Administration to compromise on that great issue? There was no lack of effort to bring about such compromise, the most marked being the offer of the Confederacy to join its forces to those of

the North to turn the French, under Maximilian, out of Mexico.

Another fact which the American members of the League to Enforce Peace carried in mind was the disappointments which the world suffered at the Congress of Vienna (1815). It will be remembered that Stein wanted a federated Germany; Alexander had liberal aspirations to set up a new Polish Kingdom; Great Britain wanted the immediate abolition of the slave trade; the whole of Europe desired more democratic control in government everywhere and some central organization among the nations to prevent a repetition of the disasters of the Napoleonic period. What happened? The Congress, after months of cross purposes, did only what it had been previously obligated to do by the preliminary treaties of Paris and Chaumont. There was such conflict of interests, real and imaginary, and such immense labours were imposed on the Congress by the need of settling the affairs

of so many States and Principalities that the larger purpose — if ever entertained seriously by the leaders of the Congress at all — failed utterly.

With this experience of the world in mind we asked the chancelleries of the Allied Powers to examine the project of the League to Enforce Peace and, if possible, to commit themselves jointly and formally to it. A like request was made of the progressive neutral nations.

What we asked, but hardly dared hope for, we have now got.

In their joint note to Mr. Wilson of Jan. 10, 1917, the Allies formally commit themselves to the project of a league of nations to discourage future wars. Their words are: "They associate themselves with all their hopes with the project for the creation of a league of nations to insure peace and justice throughout the world. They are conscious of all the advantages to the cause of humanity and civilization which would flow from the establishment of interna-

tional rules designed to avoid violent conflicts between nations, rules which must provide the sanctions necessary to insure their execution and so prevent a false security from serving simply to facilitate new aggressions." [25]

Hall Caine's dispatches to the New York *Times*, forecasting the tenor of the Allies' note, stated that it would make the establishment of a league of nations certain.

Up to that time the only intimation we had received that the suggestion of an official commitment might be acted on favourably by the Allies came from Sir Gilbert Parker, who, among others, interested himself actively in the project. A letter addressed by him to the author on Sept. 19, 1916, contained the following words: "I think that your idea of the Allies declaring in favour of compulsory inquiry, and a league to enforce it to be set up after the war, may be carried out, but it has not been definitely settled."

Following the formal commitment by the Allies to the project came a separate friendly despatch from Viscount Motono, Japanese Minister for Foreign Affairs, who cabled through the Japanese Embassy at Washington, under date of Jan. 15, the following: "I have noted with interest your unremitting efforts to secure the world against a repetition of the present convulsion. All proposals directed to effect so desirable an end must be welcomed and carefully studied by every one to whom peace and good will are not empty names and who has any regard for humanity."

XVIII

APPROVAL BY NEUTRALS

Two of the neutral Powers have taken a similar position. In fact, the first favourable response to our suggestion came from the Republic of Switzerland. Dr. Arthur Hoffmann, head of the Political Department of Switzerland, speaking

in the name of his Government, addressed the writer from Berne under date of Dec. 11, 1916, as follows:

"The League to Enforce Peace, which counts among its members so many eminent personalities, aims to insure the maintenance of peace after it shall have been concluded; truly a delicate mission but the difficulties of which are not to be allowed to discourage your efforts. You regard as one of the most efficacious means to that end a treaty of arbitration conceived in the same spirit as the treaty of Feb. 3, 1914, between Switzerland and the United States, a treaty which all the countries are to sign and by which they will undertake to submit to the decision of a supreme international tribunal the conflicts which may arise between them in order to avoid, as far as possible, a return of the catastrophe which desolates the world today. Switzerland is so much the better placed to appreciate the work of which the United States has taken the initiative because, surrounded

on all sides by war, peopled by the race, and inheriting the language and culture, of three among the combatant nations, she is better able than any other country to realize the fact that war is inhuman and is contrary to the superior interest of civilization which is the common patrimony of all men.

"If, then, at the conclusion of peace, the occasion should present itself for us to unite our efforts to yours, we will not fail to do so, and we will be happy to make our contribution toward rendering peace more secure when re-established."

The other country referred to is Spain. Under date of Jan. 13, 1917, the Foreign Minister of Spain, Don Amalio Gimeno, also speaking in the name of his Government, sent the following cablegram through the Spanish Embassy at Washington:

"His Majesty's Government is following with keen sympathy the idea of establishing, after the end of the present war, an international league for the purpose

of preventing the peace of the world being again disturbed, and when the opportunity of doing so arrives, with a guarantee of success, will lend its concourse to the realization of such a humanitarian and lofty project."

This closes the list of the formal commitments to the project up to the present time. The Ministers of several other foreign countries have shown personal interest in, and sympathy with, the plan, but express rather their private opinions than the views of their Governments.

For example the Foreign Minister of Denmark, Erik Scavenius, in a letter addressed to the writer and dated Oct. 6, 1916, says:

"The object for which the 'League to Enforce Peace' is specially working, viz. compulsory arbitration for international differences not settled by diplomatic negotiations, has at all times had full sympathy of the Danish Government. It will be sufficient in that respect to refer to the numerous arbitration treaties con-

cluded by the Danish Government with other states, and to the fact that the treaty of February 12, 1904, between Denmark and the Netherlands is the first treaty submitting to international arbitration all differences without exception. I may also refer to the stand-point taken by the Danish Government in respect to this question at the second Hague Peace Conference in the year 1907 (see 'Actes et Documents de la 2ième Conférence internationale. La Haye 1907,' II. pag. 887).

"I should esteem it a most valuable gain for the peace of the world, if those principles could attain general recognition."

It should be noted that the above dispatch commits His Excellency to, and reflects his country's interest in, simply the principle of inquiry based upon honourable obligation, whereas the League plans true compulsory inquiry supported by the sanction of force. Again, treaties in pairs between countries knowing each

other's antecedents and ambitions is quite a different matter from a common treaty embracing a large group of signatories. No doubt Denmark, which, in conjunction with the Netherlands, set this fine example to the world in negotiating the all-inclusive treaty of Feb. 12, 1904, would be willing to take the next step and extend the provisions of the treaty to a group of nations, provided the group was limited to countries with a background of tradition such as would lead one reasonably to expect them to live up to any agreements they might enter into. But we have yet to learn that she is ready to go the length of the League program, binding her to join her military forces to those of other members of the League in order to compel inquiry before any signatory to the common treaty is allowed to go to war with a fellow signatory.

XIX

REMAINING TASKS

While, before the Allies had sent their masterly note to Mr. Wilson, we considered problematic the success of the project of a league of nations, many of us now regard it as almost certain of realization. It remains to acquaint the intellectual leaders in the belligerent countries with the program, to cultivate sentiment favourable to it in neutral lands, and — that most difficult of all tasks — to secure favourable action, when the time comes, by the United States Senate.

Out of the bitterness of the time comes experience, which is wisdom. It seems that every generation requires to learn anew the awful lesson of war. Many nations learned that lesson at one and the same time in the Napoleonic wars. Was it not this fact that made possible the long era of peace which followed? The

hopeful side of the present great conflict is that it may bring the most powerful nations of the earth into an attitude of mind which will make possible the abandonment of international anarchy in favour of international organization. The hopeful thing for us here in America is that out of our own painful but illuminating experience, now that we are drawn into the maelstrom, will come a disposition to share with others the responsibility for peace and not sit in isolation as one whom this great tragedy of war does not concern.

It is not, as has been suggested, the unhappy experiences we have had in endeavouring to straighten out the affairs of certain Latin-American countries in order to avoid European interference in them which has led us to avoid an exclusive American alliance. The true reason why such an alliance has never appealed to the people of the United States is that they have far more in common with the people of Europe than with the people of

Latin-America. If such a policy has any standing at all it is due to the weak geographical argument and to the sounder sentiment that the United States, as the oldest, most powerful, and most progressive of the American republics, has exceptional responsibilities to her sister States on this continent. But it is quite conceivable that the interests of the American republics may be served better by a general league of nations to which the United States and the "ABC" countries of South America shall be parties than by a Pan-American League which would lend nothing to the cause of peace in other parts of the world.

There remains also the task of elaborating the League's plan and of reaching a common agreement in the leading countries on a tentative draft convention such as is described in an earlier chapter of this book. To be able to present to the congress which will meet to settle the multitudinous problems arising out of the Great War an actual convention that has

received general approval would multiply the chances of success for the project. Critics who assert that a league of nations cannot be formed until certain burning national and international questions are settled put the cart before the horse. The truth is that many of the very problems they have in mind will not be settled until the League *is* formed.

ADDENDUM

PLATFORM OF LEAGUE TO ENFORCE PEACE

WARRANT FROM HISTORY

Throughout five thousand years of recorded history, peace, here and there established, has been kept, and its area has been widened, in one way only. Individuals have combined their efforts to suppress violence in the local community. Communities have co-operated to maintain the authoritative State and to preserve peace within its borders. States have formed leagues or confederations, or have otherwise co-operated, to establish peace among them-

selves. Always peace has been made and kept, when made and kept at all, by the superior power of superior numbers acting in unity for the common good.

Mindful of this teaching of experience, we believe and solemnly urge that the time has come to devise and to create a working union of sovereign nations to establish peace among themselves and to guarantee it by all known and available sanctions at their command, to the end that civilization may be conserved, and the progress of mankind in comfort, enlightenment and happiness may continue.

PLATFORM

We believe it to be desirable for the United States to join a league of nations binding the signatories to the following:

First: All justiciable questions arising between the signatory Powers, not settled by negotiation, shall, subject to the limitations of treaties, be submitted to a judicial tribunal for hearing and judgement, both upon the merits and upon any issue as to its jurisdiction of the question.

Second: All other questions arising be-

tween the signatories and not settled by negotiation, shall be submitted to a council of conciliation for hearing, consideration and recommendation.

Third: The signatory Pòwers shall jointly use forthwith both their economic and military forces against any one of their number that goes to war, or commits acts of hostility, against another of the signatories before any question arising shall be submitted as provided in the foregoing.*

Fourth: Conferences between the signatory Powers shall be held from time to time to formulate and codify rules of international law, which, unless some signa-

* The following interpretation of Article 3 has been authorized by the Executive Committee:

"The signatory Powers shall jointly employ diplomatic and economic pressure against any one of their number that threatens war against a fellow signatory without having first submitted its dispute for international inquiry, conciliation, arbitration or judicial hearing, and awaited a conclusion, or without having in good faith offered so to submit it. They shall follow this forthwith by the joint use of their military forces against that nation if it actually goes to war, or commits acts of hostility, against another of the signatories before any question arising shall be dealt with as provided in the foregoing."

tory shall signify its dissent within a stated period, shall thereafter govern in the decisions of the Judicial Tribunal mentioned in Article One.

NOTES

1. Publication of all documents quoted in this work has been authorized.

2. This chapter represents approximately the conclusions thus far reached by a private study-group, not a committee of the League to Enforce Peace, though drawn largely from its leading members. The subject was examined at seven meetings extending from December 15 to June 28, 1917. The group was of varying personnel, the names of all who participated from time to time being as follows:

George Louis Beer, John Bigelow, Edwin M. Borchard, Elmer Ellsworth Brown, John Bates Clark, William C. Dennis, Samuel T. Dutton, John H. Finley, Harry A. Garfield, Franklin H. Giddings, Robert Goldsmith, Frank J. Goodnow, Hamilton Holt, George C. Holt, Jeremiah W. Jenks, A. Lawrence Lowell, Theodore Marburg, Leo S. Rowe, William H. Short, Edwin Smith, James T. Shotwell, Oscar S. Straus, William H. Wadhams, Eugene Wambaugh, Everett P. Wheeler, Talcott Williams, George Grafton Wilson.

The labours of the group will continue. It

has framed a Draft Convention, still incomplete, designed to inaugurate a league of nations. The section relating to the Court was prepared by a Sub-Committee consisting of Everett P. Wheeler, Eugene Wambaugh, George Grafton Wilson, and W. C. Dennis.

3. It is with this in view that the term, "contracting Powers," instead of "States of the League," is used in this section.

4. The Backward Nation, *The Independent*, June 20, 1912. The article was reprinted by the Bern Peace Bureau in English, French, and German, and comment on it by publicists in America and abroad appeared in *The Independent*, Nov. 7, 1912, March 6, 1913, and Sept. 9, 1913.

5. A League of Peace, Hamilton Holt, Proceedings of the Third American Peace Congress.

6. Address before the University of Pennsylvania, June, 1910.

7. Christiania address, May 5, 1910.

8. *The Independent*, Sept. 28, 1914.

9. *Ibid.*, Oct. 26, 1914.

10. Those who took part in the three preliminary meetings (Jan. 25th, Jan. 31st, and March 30th, 1915) were: John Bates Clark, Frank Crane, Irving Fisher, Franklin H. Giddings, John Hays Hammond, George C. Holt, Hamilton Holt, Harold J. Howland, William B. Howland, William I. Hull, Jeremiah W. Jenks, Frederick N. Judson, George W. Kirchwey, Frederick Lynch, Theodore Marburg, George M. Plimpton, John A. Stewart, William H. Short, James L.

Tryon, Everett P. Wheeler, Westel W. Willoughby, Theodore S. Woolsey.

11. World Court and League of Peace, the author, *Judicial Settlement Quarterly,* Feb., 1914.

12. In this connection we are at once confronted with the question whether a neutralized State can properly incur the obligations resting on a member of the League. In addressing himself to this problem a French writer—Gaston Moch, *La Guarantie de la Societè des Nations*—sets up the alternate views that the position of a neutralized State would not prevent its participation in purely police measures undertaken by the League in the common interest, and that if this assertion does not hold and the neutralized State should in fact be debarred from common military action it might still be called upon to use the purely pacific penalties against an offending signatory. Are either of these positions sound? How long would the "guaranteed" neutrality of a State be respected on the outbreak of war if its neighbor knew that the State in question was free, as a member of the League to attack it, the neighbor? Commercial boycott, practiced by the neutralized State, would be almost an equally severe strain on the neutralization compact. While it has its manifest disadvantages, there is probably no other position to take than that the neutralized State shall be left out of a league and, as under the old conditions, shall be asked to do nothing except defend its own territory when invaded. The disadvantages

of such a conclusion are that the League would be the poorer by the absence of such progressive little countries as Belgium and Switzerland, free from disturbing ambitions—poorer by the lack of the additional balance they would give to its deliberations, and by the lack of their cooperation in applying economic pressure. Further light is needed on this problem.

13. Participants in the fourth meeting, April 9, 1915, were:—James M. Beck, John Bates Clark, J. Reuben Clark, Jr., William C. Dennis, John Hays Hammond, Hamilton Holt, Harold J. Howland, William B. Howland, Andrew B. Humphrey, Darwin P. Kingsley, George W. Kirchwey, A. Lawrence Lowell, Frederick Lynch, Theodore Marburg, Henry S. Pritchett, Leo S. Rowe, William H. Short, Albert Shaw, John A. Stewart, William Howard Taft.

14. "Peace Through Justice," by James Brown Scott.

15. The preamble to the platform, revealing the tendency throughout history to secure peace through ever-widening group-action, was written by Franklin H. Giddings.

16. The attention which the movement has attracted is instanced by the fact that in the week ending Feb. 3, 1917, twenty-three hundred newspaper clippings referring to the League were received at the central office. Money contributions to the propaganda up to April, 1917, amounted to one hundred and thirty-six thousand dollars. The successful financing of the

League is due principally to Herbert S. Houston and Edward A. Filene. Both have likewise been prominent in the campaign of education.

A. Lawrence Lowell, who played a leading part in finally deciding upon the actual platform of the League, has since then been most active in spreading a knowledge of its principles in the press and from the rostrum, and, as Chairman of the Executive Committee, in directing the League's activities.

Another source of strength to the League, not only in connection with the work of propaganda and general administration, but from the side of the development of its principles and plans, has been its Secretary, William H. Short. It is certain that the League would not be so far along unless this particular man had occupied this particular office.

Still another of the "fathers" is John Bates Clark. His extraordinary powers of clear thinking which have caused him for a generation past to be ranked among the very foremost American writers on political economy have led us to lean on him throughout our examination of the project. His service to the cause from the side of analysis, and as head of one of the active committees of the League, cannot be measured.

Conspicuous service to the League has also been given by Talcott Williams, who has been a source of strength in council and on the rostrum; by George Grafton Wilson, out of whose survey of possible activities the plan of fram-

ing an actual Draft Convention grew; by Eugene Wambaugh, who has given much time and thought to the admirable section relating to the Court; and by Everett P. Wheeler, who, as member of a committee of the New York Bar Association, examined the question some years before the present movement for a true international court of justice began.

17. An eminent Maryland lawyer of a former generation, when a fellow member of the bar whom he disliked was referred to in his presence as the Nestor of the Maryland bar, exclaimed "Yes, a mare's nester." This kind of Nestor appears occasionally in the United States Senate; and it will be remembered that a mare's nest, discovered by one of them several years ago, was a supposed Japanese plot to acquire and fortify Magdalena Bay. The discussion to which reference is made in the text, is an echo of the former discussion and not a new alarm.

18. Article xiv by Cosmos, and the author's reply, *N. Y. Times,* Dec. 17, 1916.

19. The question of precisely what Powers are to be admitted to the League has never been passed upon by any committee of the League to Enforce Peace nor by any of the private study-groups referred to, although it has been frequently discussed. It is safe to say that there is no important body of opinion favouring the admission of all nations irrespective of internal conditions; while there does exist a marked inclination in some quarters to

limit membership in the League to the progressive nations.

20. Discussion of economic pressure is omitted from this volume because the author sees weighty objections to its use in any form or under any circumstances. Throughout the earlier deliberations he opposed the idea. But, as an officer of the League, he believes that loyalty to it and consideration for the larger positive side of its task alike demand that he abstain from attacking that which is become a feature of the League's platform.

21. The Committee on Foreign organization consists of John Grier Hibben, Talcott Williams, Harry A. Garfield, John Hays Hammond, John Bates Clark, Oscar S. Straus, Edward A. Filene, Herbert S. Houston, William Dudley Foulke, Myron T. Herrick, Hamilton Holt, Theodore Marburg.

22. Issue of April 8, 1916.

23. Speech at Queen's Hall, London, Aug. 4, 1916.

24. A conversation with Mr. Balfour at his temporary quarters in Washington, May 17, 1917, left on the author's mind the impression that Mr. Balfour was quite as unprepared as Viscount Grey to say that we could go so far at present as to enforce the judgments of an international tribunal. Mr. Balfour expressed sympathy with the general purposes of the League to Enforce Peace, though, for lack of time, he had been unable, he stated, to study

its program and was therefore not ready to endorse the separate items of its platform.

25. The last sentence is translated directly from the French text because of the imperfections in the translation received at Washington from Paris.

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